



State of Rhode Island and Providence Plantations
Department of Labor & Training
Workers' Compensation Self-Insurance Unit
P.O. Box 20190
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SELF-INSURANCE AGREEMENT

As a requirement by the Director, this Self-Insurance Agreement must be completed and returned as soon as possible.

In addition, Trust and Escrow Agreements may be required at any time at the option of the Director.

SELF-INSURANCE AGREEMENT

This Agreement ("Agreement") dated as of _____ by and between _____ a corporation (incorporated in), and if applicable as a parent company, _____, incorporated in _____, and the Department of Labor & Training of the State of Rhode Island, or the successor, department, agency or office to the responsibilities of such Department (the "Department").

WITNESSETH

WHEREAS, _____ is ... an employer ... subject to the provisions of Chapter 29 through 38, inclusive, of Title 28 of the Rhode Island General Laws, as amended, known as the Worker's Compensation Act ("the Act"); and

WHEREAS, _____ desires to self-insure for all or part of its' liability under the Act pursuant to Section 28-36-1 of the Act; and

WHEREAS, the Department is willing to allow _____ to self-insure for all or part of its' liability under the Act, subject to the following terms and conditions.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Certificate. Provided _____ has satisfied and/or complied with all of the terms and conditions contained in this Agreement, pursuant to Section 28-36-2 or the Act, the Department shall issue to _____ a certificate of self-insurance indicating _____ compliance with Section 28-36-1 of the Act (the "Certificate"). The Certificate shall remain in force from _____, _____ at 12:01 a.m. through and including _____, _____ at 12:00 a.m., unless revoked pursuant to the provisions of the Act or pursuant to Section 9 hereof.

2. Employee Information. The Certificate is issued to: _____ with respect to its' employees subject to the Act as of the date hereof which is agreed to include _____ and for any employees that may be hired during the

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term the Certificate is in effect, as long as _____ shall not be in default of its' obligations under this agreement.

3. Loss Information. _____ shall at its' sole cost and expense, cause and occupational safety and loss prevention analysis, including recommendations, to be performed by a reputable firm or individual approved by the Department, in its' sole discretion; should the Department at any time during the course of self-insurance certification feel that such a need has arisen in the interest of protection of Rhode Island employees in the program.

4. Audit. _____ at its' sole cost and expense, shall submit to the Department an independent underwriting audit and analysis in such form as the Department may require to include a breakdown of the number of employees in each applicable classification code and the payroll for each classification code. The request for audit and analysis shall have a stated reporting date.

5. Bond or Security. (a) As additional security for the payment and performance of the obligations of _____ under the Act, contemporaneously with the execution of this Agreement, _____ shall provide the Department with a bond or security in the amount of _____ Dollars (\$ _____). Said bond (i) shall be issued by an insurance company qualified to transact business and issue such bonds in the State of Rhode Island under all applicable laws, (ii) shall have a rating of A or better by each of Standard & Poor's, Moody's and Best's and (iii) shall contain such terms and conditions as the Director shall deem necessary and appropriate in his discretion. And/or ... (b) ... shall provide

_____ pledged to the Department for benefit of the Rhode Island employees of _____. Said surety shall otherwise satisfy all requirements of the bond described in Section 5. (a) hereof.

6. Representations and Warranties. _____ represent and warrant which representations and warranties shall be continuing at all times hereunder and shall be deemed the joint and several representatives of _____ as follows:

(a) _____ (i) is a duly organized corporation, validly existing and in good standing under the laws of the State of _____ (ii) has the corporate power and authority to own its' properties and to carry on business as now being conducted and is qualified to do business in every jurisdiction where such qualification is necessary, including without limitation, the State of Rhode Island and (iii) has the corporate power to execute, deliver, and perform its' obligations under this Agreement, and any and all other Agreements, documents and instruments executed in connection herewith (collectively, "such Agreements").

(b) The execution and delivery of, and performance by _____ of obligations under this Agreement and such Agreements have been duly authorized by all requisite corporate action on the part of _____, do not require the consent of any third party and will not violate any provisions of law, any order or any court or other agency or government, the corporate charter or by-laws of _____, or any indenture, agreement or other instrument to which _____, is a party, or by which it may be bound; or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by the Agreement, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of _____ pursuant to any such indenture, agreement or instrument. The execution and delivery of this Agreement and such Agreements will constitute the valid and binding obligations of _____, enforceable in accordance with their respective terms.

(c) _____ is not a party to any agreement or instrument or subject to any charter or other corporate restriction adversely affecting its' business, properties or assets, operations or conditions, financial or otherwise. _____ has no knowledge of any default and is not in material default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party.

(d) No statement of fact made by or on behalf of _____ in this Agreement or in any application, financial statement, certificate, report or any other documentation furnished to the Department, contains any untrue statement of a material

fact or omits to state any material fact necessary to make statements contained therein or herein not misleading. There is no fact presently known to _____ which has not been disclosed to the Department in this Agreement or otherwise which materially affects adversely nor as far as _____ can foresee, will materially affect adversely its' property, business, operations or conditions (financial or otherwise).

(e) _____ has filed all federal, state and local tax returns required to be filed, and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments.

(f) To the best of its' knowledge, _____ is in compliance with and has received no notice, oral or written, of any violation or noncompliance with all applicable laws, statutes, ordinances, rules, regulations, orders, injunctions, writs or decrees of any governmental or political subdivision or agency thereof or any court or similar entity including, without limitation, the Rhode Island Department of Environmental Management and the Environmental Protection Agency or their successors.

(g) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending or, to the knowledge of _____ threatened against or affecting _____, which, if adversely determined, would have a material adverse effect on the business, operations, properties, assets or condition, financial or otherwise, of _____.

7. Covenants. _____ covenants and agrees that, from the date hereof and until termination of the Agreement, _____ will:

(a) Do or cause to be done all things necessary to preserve, renew, and keep in full force and effect its' corporate existence, rights, licenses, permits and franchises.

(b) Promptly comply with all applicable laws, statutes, ordinances, rules and regulations, orders, injunctions, writs or decrees, whether now in effect to hereafter enacted or promulgated by any government, or political subdivision, authority, or agency thereof, or any

court having jurisdiction with respect to _____.

(c) Pay and discharge or cause to be paid and discharged, all taxes, assessments and governmental charges or levies imposed upon it or upon its' respective income and profits or upon an of its' property, real, personal or mixed, or upon any part thereof, before the same shall become in default.

(d) Give prompt written notice to the Department of any proceedings instituted against it by or in any federal or state court or before any commission or other regulatory body, whether federal, state or local, which seeks relief that might materially and adversely affect its' operations, financial condition, property or business.

(e) Furnish to the Department, in form and detail satisfactory to the Department, such applications, financial statements, certificates, reports and such other information required by this Agreement, the Act or any rule or regulation promulgated thereunder or such information relating to the business and affairs of _____ as may be reasonably requested by the Department from time to time.

(f) Permit agents or representatives of the Department to audit and/or inspect at reasonable hours its' books and records at such time or at such intervals as required by the Act or any rule or regulation promulgated thereunder and/or upon the request of the Department.

(g) Pay to the Department such fees, assessments, including, without limitation, application fees, examination fees, license fees as required by the Act or any rule or regulation promulgated thereunder or as set by the Department in its' sole discretion.

(h) Promptly advise the Department of any material adverse change in its' condition, financial or otherwise, or of the occurrence of any Event of Default as defined in Section 8 hereof or of the occurrence of any event which, upon notice or lapse of time or both, would constitute such an Event of Default.

(i) Maintain or cause to be maintained such insurance, including public liability

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insurance and fire and extended insurance coverage on all assets owned by it, all in such form and amounts as are consistent with industry practices and furnish to the Department such evidence of insurance as the Department may require.

(j) No change in claim advisors can be accomplished unless prior approval granted by the Department.

8. Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder.

(a) Failure or refusal by _____ to comply with any provision of the Act or any rule or regulation promulgated thereunder; or

(b) Failure or refusal by _____ to pay when due any compensation claim or any other amounts due and payable under the Act or under any rule or regulation promulgated thereunder; or

(c) Breach of, or the proving false or misleading in any material respect, of any representation or warranty now or hereafter made to the Department, on behalf of or for the benefit of _____ or contained in this Agreement, in _____ application for self-insurance, or in any financial statement, certificate, report or other documentation submitted to the Department; or

(d) Failure or refusal by _____ to pay, perform or observe any covenant, condition, obligation, or agreement contained in this Agreement, in any of such Agreements or any other agreement between _____ and the Department, now existing or hereafter arising; or

(e) The insolvency or inability of _____ to pay its' debts as they mature, or the appointment of a receiver, Trustee, custodian or other fiduciary, for or for any of the property of, or an assignment for the benefit of creditors by, _____; or

(f) The filing of a petition, complaint motion or other pleading seeking any relief under RI SI-17

receivership, insolvency, or debtor release law, or seeking any readjustment of indebtedness, reorganization, composition, extension or any similar type of relief, or the filing of a petition, complaint, or motion under any chapter of the Federal Bankruptcy Code, as the same now exists or may hereafter be amended (the “Code”), by or against; or

(g) Any change for any reason in the ownership or control of _____; or

(h) _____ shall dissolve, liquidate, or consolidate or merge with any other corporation or entity; or

(i) If _____ shall cease all or a substantial portion of its’ business operation; or

(j) If _____ shall sell, lease or exchange all or substantially all of its’ assets; or

(k) If there is any adverse change in the financial or other condition of _____ or any act or omission of _____ or any act or omission of any officer or director of _____ which leads the Department reasonably to believe that _____ is or may become unable to perform its’ existing or future obligations under the Act, or to perform any or the covenants, agreements or conditions contained in this Agreement, such Agreements, or any other agreement to which _____ is a party, now existing or hereafter arising; or

(l) If the Director of the Department determines in his sole discretion that the security for the payment or performances of the obligations of _____ under the Act is or may become impaired or inadequate.

9. Revocation of Certificate. If _____ shall fail to perform or observe any of the covenants, agreements or obligations on the part of _____ to be performed pursuant hereto, or if a default or an Event of Default shall occur under this Agreement or under any of such Agreements, then

in addition to any right or remedy the Department may have under this Agreement, such Agreements and the Act, the Department may revoke the Certificate in accordance with the procedures set forth in the Act.

10. Claim Fund Account. _____ shall maintain a Claim Fund Account (the "Account") in a federally insured institution approved by the Department. Any change in the location or the account must be with prior approval of the Department. The funds in the Account shall be used solely for the purpose of paying weekly workers' compensation benefits, medical expenses, payments ordered by the Worker's Compensation Court and any other benefits or payments provided for under the Act. Payments for medical expenses on claims involving no weekly benefit payments (so-called "medical only" claims) shall be paid only from this Account. The funds in the Account shall remain distinct and separate from funds for reserves, administrative expenses and other costs associated with the operation of the self-insurance program. _____ shall immediately provide to the Department the name of the financial institution holding the Account. On the first business day of each month beginning _____, and on the first business day of each month thereafter, the Account shall have a minimum balance of _____ (\$ _____). _____ shall provide the Department, on or before the fifteenth (15th) day of each month beginning _____, a report or all transactions on the Account for the prior month. _____ hereby pledges and grants to the Department a continuing security interest in and to the Account, and agrees to sign any and all documents and instruments required by law to perfect said security interest. In addition, _____ hereby constitutes and appoints the individual serving from time to time as the Director of the Department its' attorney in fact for the purpose of signing any and all documents and financing statements and the taking of any and all action that the Director may deem necessary and appropriate to perfect such security interest. The foregoing power shall be coupled with an interest and is hereby deem irrevocable.

11. Claims Account Information.

Adjusting Firm: _____

Bank of Deposit for Claims: _____

Claims Account Number: _____

12. Claims Administration. The Department shall have the right to approve any claims monitoring, claims administration or claims adjusting plan proposed by _____ to administer its' Rhode Island claims. No contract or agreement between _____ and any claims administration company shall be valid and enforceable unless approved in writing by the Department; fax method acceptable.

13. Execss Insurance. _____ shall maintain a policy of excess insurance with a maximum retention of _____ dollars (\$ _____) and or an aggregate limit of _____ dollars (\$ _____) for Workers' Compensation; or statutory coverage only with an issuer qualified to transact business in the State of Rhode Island and/or approved by the Department in its' sole discretion. The policy shall require the insurer to notify the Department at least ten (10) days in advance of the cancellation of said excess insurance policy and any changes to the policy immediately upon receipt of notice thereof. Said excess insurance policy shall provide coverage for all Rhode Island employees of _____. A captive insurance company may be approved by the Director, but such captive cannot write competitive business or any other business that is not connected with the controlling company.

14. General Liability Insurance. _____ shall provide to the Department, upon the execution of this Agreement, and thereafter at all times while the Certificate is in effect, copies of each liability policy or policies issued to _____ covering claims arising on or after _____. Each such liability policy covers claims arising during the period when the Certificate is in effect and shall be specifically written to cover Rhode Island locations of _____.

15. Financial Statements. _____ shall submit to the Department such financial statements, certified by an accounting firm acceptable to the Department in its' sole discretion, at such times and in such form as the Department may require from time to time, but, as long as an Event of Default shall not have taken place, in no event shall the Department require the submission of said statements more than on a quarterly basis unless required by law.

16. Litigation. _____ shall promptly notify the Department of all lawsuits and administrative proceedings filed against it in any state and of any change in the status of any such proceedings which may adversely affect its' financial condition.

17. Agreement Authorized. _____ represents and warrants to the Department that this Agreement constitutes the legal, valid and binding agreement of _____, duly authorized by all requisite action, and enforceable against _____ in accordance with its' terms.

18. Notices. All notices, requests, demands or other communications provided for hereunder shall be in writing (including telegraphic communication) and mailed first class mail, postage prepaid, or telegraphed or delivered to the applicable party at the address indicated below:

If to Self-Insured : _____

Attention: _____

If to the Department:

Rhode Island Department of Labor & Training
1511 Pontiac Avenue, PO Box 20190
Cranston, RI 02920-0942
Attn: Self-Insurance Unit

or, as to either party, at such other address as shall be designated by such party in a written notice to the other party complying as to delivery with the terms of this Section. All such notices and other communications shall, when mailed or telegraphed, respectively, be effective when deposited in the mails or delivered to the telegraph company, respectively, addressed as aforesaid.

19. Governing Law; Binding Agreement. This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of Rhode Island (without reference to its' conflicts of laws principles). This Agreement shall be binding upon and shall inure to RI SI-17

the benefit of the parties hereto and their successors and permitted assigns. Notwithstanding the foregoing, _____ may not assign its' rights or delegate any duties hereunder without the prior written consent of the Department.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

WITNESS

By _____

TITLE _____

WITNESS

DEPT OF LABOR & TRAINING
STATE OF RHODE ISLAND

By _____

TITLE _____

DLT is an equal opportunity employer/program - auxiliary aids and services available upon request. TTY via RI Relay: 711
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